

AMENDED IN ASSEMBLY APRIL 19, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2336**

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**Introduced by Assembly Member McCarthy**  
**(Coauthor: Assembly Member Spitzer)**

February 23, 2006

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An act to amend Section 11489 of the Health and Safety Code, *and to amend Section 13835.7 of the Penal Code*, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 2336, as amended, McCarthy. Controlled substances: forfeiture: funds distribution.

Existing law generally provides that the interest of any registered owner of a boat, airplane, or vehicle which has been used as an instrument to facilitate the possession for sale or sale of specified amounts of specified controlled substances, and all moneys, negotiable instruments, or securities used or intended to be used to facilitate any violation of specified controlled substance offenses are subject to forfeiture. Existing law provides that in all cases where the property is seized and forfeited to a state or local governmental entity and, where necessary, sold, the money forfeited or the proceeds of sale shall be distributed by the state or local governmental entity to specified persons or entities for specified purposes, and the remaining funds shall be distributed 65% to the state, local, or state and local law enforcement entities that participated in the seizure; 10% to the prosecutorial agency which processes the forfeiture action; 24% to the General Fund; and 1% to a private nonprofit organization for the

education and training of prosecutors and peace officers with respect to the seizure and forfeiture of assets.

This bill would revise the above distribution of the remaining funds to, *commencing July 1, 2007*, delete the 24% allocation to the General Fund and increase the allocation to the state, local, or state and local law enforcement entities that participated in the seizure from 65% to ~~89%~~ 78%. *The bill would also, commencing July 1, 2007, increase the allocation to the prosecutorial agency to 15%, and would allocate 6% to the Victim-Witness Assistance Fund.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 11489 of the Health and Safety Code is  
2     amended to read:  
3     11489. Notwithstanding Section 11502 and except as  
4     otherwise provided in Section 11473, in all cases where the  
5     property is seized pursuant to this chapter and forfeited to the  
6     state or local governmental entity and, where necessary, sold by  
7     the Department of General Services or local governmental entity,  
8     the money forfeited or the proceeds of sale shall be distributed by  
9     the state or local governmental entity as follows:  
10    (a) To the bona fide or innocent purchaser, conditional sales  
11    vendor, or mortgagee of the property, if any, up to the amount of  
12    his or her interest in the property, when the court declaring the  
13    forfeiture orders a distribution to that person.  
14    (b) The balance, if any, to accumulate, and to be distributed  
15    and transferred quarterly in the following manner:  
16    (1) To the state agency or local governmental entity for all  
17    expenditures made or incurred by it in connection with the sale of  
18    the property, including expenditures for any necessary costs of  
19    notice required by Section 11488.4, and for any necessary  
20    repairs, storage, or transportation of any property seized under  
21    this chapter.  
22    (2) The remaining funds shall be distributed as follows:  
23    (A) ~~Eighty-nine~~ *Commencing July 1, 2007*, 78 percent to the  
24    state, local, or state and local law enforcement entities that  
25    participated in the seizure distributed so as to reflect the  
26    proportionate contribution of each agency.

(i) Fifteen percent of the funds distributed pursuant to this subparagraph shall be deposited in a special fund maintained by the county, city, or city and county of any agency making the seizure or seeking an order for forfeiture. This fund shall be used for the sole purpose of funding programs designed to combat drug abuse and divert gang activity, and shall wherever possible involve educators, parents, community-based organizations and local businesses, and uniformed law enforcement officers. Those programs that have been evaluated as successful shall be given priority. These funds shall not be used to supplant any state or local funds that would, in the absence of this clause, otherwise be made available to the programs.

It is the intent of the Legislature to cause the development and continuation of positive intervention programs for high-risk elementary and secondary schoolage students. Local law enforcement should work in partnership with state and local agencies and the private sector in administering these programs.

(ii) The actual distribution of funds set aside pursuant to clause (i) is to be determined by a panel consisting of the sheriff of the county, a police chief selected by the other chiefs in the county, and the district attorney and the chief probation officer of the county.

~~(B) Ten—Commencing July 1, 2007, 15 percent to the prosecutorial agency which processes the forfeiture action.~~

~~(C) (1) Until July 1, 2007, 24 percent to the General Fund. Notwithstanding Section 13340 of the Government Code, the moneys are hereby continuously appropriated to the General Fund. Commencing January 1, 1995, and until July 1, 2007, all moneys deposited in the General Fund pursuant to this subparagraph, in an amount not to exceed ten million dollars (\$10,000,000), shall be made available for school safety and security, upon appropriation by the Legislature, and shall be disbursed pursuant to Senate Bill 1255 of the 1993–94 Regular Session, as enacted.~~

~~(2) Commencing July 1, 2007, 6 percent shall be deposited in the Victim-Witness Assistance Fund, as established pursuant to Section 13835.7 of the Penal Code.~~

~~One~~

~~(D) One percent to a private nonprofit organization composed of local prosecutors which shall use these funds for the exclusive~~

1 purpose of providing a statewide program of education and  
2 training for prosecutors and law enforcement officers in ethics  
3 and the proper use of laws permitting the seizure and forfeiture of  
4 assets under this chapter.

5 (c) Notwithstanding Item 0820-101-469 of the Budget Act of  
6 1985 (Chapter 111 of the Statutes of 1985), all funds allocated to  
7 the Department of Justice pursuant to subparagraph (A) of  
8 paragraph (2) of subdivision (b) shall be deposited into the  
9 Department of Justice Special Deposit Fund—State Asset  
10 Forfeiture Account and used for the law enforcement efforts of  
11 the state or for state or local law enforcement efforts pursuant to  
12 Section 11493.

13 All funds allocated to the Department of Justice by the federal  
14 government under its Federal Asset Forfeiture program  
15 authorized by the Comprehensive Crime Control Act of 1984  
16 may be deposited directly into the Narcotics Assistance and  
17 Relinquishment by Criminal Offender Fund and used for state  
18 and local law enforcement efforts pursuant to Section 11493.

19 Funds which are not deposited pursuant to the above paragraph  
20 shall be deposited into the Department of Justice Special Deposit  
21 Fund—Federal Asset Forfeiture Account.

22 (d) All the funds distributed to the state or local governmental  
23 entity pursuant to subparagraphs (A) and (B) of paragraph (2) of  
24 subdivision (b) shall not supplant any state or local funds that  
25 would, in the absence of this subdivision, be made available to  
26 support the law enforcement and prosecutorial efforts of these  
27 agencies.

28 The court shall order the forfeiture proceeds distributed to the  
29 state, local, or state and local governmental entities as provided  
30 in this section.

31 For the purposes of this section, “local governmental entity”  
32 means any city, county, or city and county in this state.

33 (e) This section shall become operative on January 1, 1994.

34 *SEC. 2. Section 13835.7 of the Penal Code is amended to*  
35 *read:*

36 13835.7. There is in the State Treasury the Victim-Witness  
37 Assistance Fund. Funds ~~appropriated thereto~~ *deposited in the*  
38 *fund* shall, *upon appropriation*, be dispensed to the agency or  
39 agencies designated by the Director of Finance pursuant to  
40 Section 13820 exclusively for the purposes specified in this

1 article and for the support of the centers specified in Section  
2 13837.

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